

II. REJECTION UNDER 35 U.S.C. SECTION 103

The Examiner has rejected pending claim 12 in view of the Paulucci '882 reference. This rejection is respectfully traversed.

The crust invention made as claimed herein utilizes the specific structure and steps recited in the claims. The resulting pizza crust exhibits desirable properties, including improved stability, a flaked interior and crisp surfaces. In the claimed product, the dough is proofed, before steps of sheeting and lamination are performed to introduce an extruded margarine layer and create alternating layers of fat and dough. The resulting pizza crust exhibits improved characteristics of stability and structure that survives the relatively harsh further processes of topping, freezing and microwaving.

Applicant also notes that, in the parent case Serial No. 08/968,900, the Examiner stated the following in her statement of reasons for allowance on page 2: "The prior art does not disclose the steps or manipulating the dough sheet and margarine to produce a folded dough having a plurality of margarine layers distributed between layers of dough." These patentable features are now recited in the product claim of claim 12 as a product incorporating the layers of *margarine* into the *proofed dough*. Claim 12 has been amended in this regard to emphasize these unique structural characteristics.

It is true that the Paulucci reference discloses in Example 6 a method for producing a pizza crust that includes the steps of "laminating" shortening flakes into a dough. However, as confirmed in the attached Declaration of Ronald O. Bubar, it is clear that this reference does not produce a dough having laminated fat and dough layers as in the present invention. Instead, Example 6 of the Paulucci reference introduces shortening flakes into the dough and then laminates the dough to distribute

the shortening flakes *throughout* the crust. The resulting product has a bready, porous interior, as confirmed by the attached Declaration and in column 1, lines 54-58 of the '882 patent.

Respectfully, it is submitted that the Examiner has not demonstrated that the prior art Paulucci reference, or any other process, could produce a product as claimed herein. Such an explanation is necessary in order to maintain the present rejection.

First, the Examiner states that it would have been obvious to substitute margarine for shortening and vice-versa. Such a substitution, however, would not be obvious, as confirmed in the attached Declaration of Ronald O. Bubar, which was submitted in the parent case Serial No. 08/968,900. The Applicant, Mr. Bubar, was involved in the development of the Paulucci method and confirms the nature of the flakes. Furthermore, as noted above, the final product from Example 6, as clearly stated in the '882 patent, is a bready, non-layered finished product, which is clearly not "laminated" with multiple layers as in the present invention.

Even if, as the Examiner suggests, it would have been obvious to use a smooth quality of margarine as a substitute for shortening -- and the Applicant submits that it is not obvious -- there is nothing in the prior art Paulucci reference that shows the structure as claimed of a pre-proofed dough incorporated with the margarine layers. Furthermore, the Paulucci prior art reference would not suggest the use of other specified steps in the process nor the particular point at which the margarine is introduced onto the dough, most notably the use of a proofed dough for incorporation of the margarine. As noted in the attached Declaration, the method of the present invention and the resulting product is drastically different from that described in the

Paulucci reference. It would therefore not have been obvious to substitute margarine for the shortening flakes in the Paulucci reference to obtain a crust having the improved microwaveable qualities described above and in the attached Declaration.

In addition, the present invention involves unexpected results. In the attached Declaration, the inventor states that the improved quality of structural stability, large flaked layered structure and crisp upper and lower surfaces of the crust resulting from the present invention exhibited a surprising improvement in microwaveability over the crust of the Paulucci patent. Indeed, the method shown in the Paulucci patent does not result in a crust exhibiting proved microwaveable properties, and did not suggest that the crust having the above structural features would produce a product having drastically improved microwaveable properties. Indeed, there is nothing in the cited prior art that would suggest that a multi-layered laminated crust resulting from the claimed process would exhibit improved microwaveable properties.

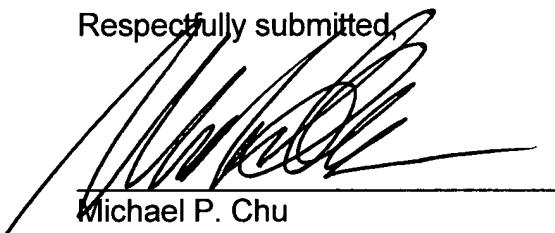
New independent claim 17 recites the proofing step in a product-by-process claim incorporating steps and resulting structure from the applicant's previously patented method. The new claims are clearly supported by the originally filed disclosure.

Since each of the pending independent Claims 12 and 17 involve at least the incorporation of margarine into a proofed dough structure, each of the claims partakes of these unexpected results. Thus, all of the claims are patentable over the cited reference.

CONCLUSION

The present case is therefore believed to be in condition for allowance. A notice to that effect is therefore respectfully requested.

Respectfully submitted,



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ANNEX



12. (Amended) A laminated crust dough comprising:

a multi-layered dough lamination incorporating a plurality of margarine layers distributed between layers of a proofed dough product, said lamination formed by [proofing the dough product,] forming the dough product into a sheet, extruding a margarine layer thereon, and manipulating the sheet and margarine to produce a folded dough having a plurality of margarine layers distributed between layers of the dough product.